

STATE OF MARYLAND

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Shari T. Wilson, Secretary

BILL NO: HOUSE BILL 259

COMMITTEE: Education, Health, and Environmental Affairs

POSITION: Support

**TITLE: Environmental Health Monitoring and Testing -
Reimbursement of Costs**

BILL ANALYSIS: This bill adds two new sections to the Environment Article. New § 1-304 provides counties and Baltimore City with the authority to recover reasonable costs incurred for environmental health testing and monitoring to assess the effect on public health or the environment of a release of a hazardous substance, or the discharge of oil or other pollutants into the environment from the person responsible for the discharge or release. The bill also requires the Department to recover the local government's reimbursable costs where the Department has its own pending claim or claims against the responsible person and the local government determines that consolidating the claims in a single action would be more efficient. The bill prohibits local government cost recovery of costs for activities that are duplicative of State activities.

The Department has existing authority to recover costs associated with a release of a hazardous substance or a discharge of oil, but does not have similar cost recovery authority for the discharge of other pollutants. New Environment Article § 9-342.2 supplements the Department's existing cost recovery provisions with authority to recover monitoring and testing costs associated with the discharge of other pollutants.

POSITION AND RATIONALE: SUPPORT

Under existing State law, MDE is authorized to recover costs related to the investigation and clean up of soil and water contamination resulting from the release or discharge of oil or a hazardous substance. This is typically

referred to as “cost recovery” authority. County governments do not presently have “cost recovery” authority to recover moneys spent for environmental health testing or monitoring in response to oil spills, the discharge of a hazardous substance or other pollutants. Similarly, the Department lacks this authority under its general water pollution statutes.

This bill would provide Baltimore City and county governments the authority to recover costs incurred in monitoring and assessing the impact of a release or discharge of pollutants into the environment at sites within the counties’ jurisdiction directly from the person who caused the discharge. The bill would also expand MDE’s existing “cost recovery” authority to cover pollutants other than oil and hazardous substances.

This bill provides a resolution to the situation that arose out of groundwater contamination emanating from a coal combustion by-product disposal site in Anne Arundel County. In that situation the Anne Arundel County Department of Health incurred approximately \$100,000 in costs to sample residential drinking water wells for the presence of contaminants. MDE did not have the ability to recover the County’s costs, nor did the County, other than through a lawsuit based on common law.

The bill shifts the burden of paying for environmental health testing and monitoring from the taxpayers to the persons responsible for the pollution.

FOR MORE INFORMATION,
CONTACT LISA NISSLEY
410-260-6301 ANNAPOLIS
410-537-3812 BALTIMORE